WP(C) 5367/2007

BEFORE

HON'BLE MR. JUSTICE B.K. SHARMA

Heard Mr. N.N. Karmakar, learned counsel for the petitioner. Also heard Mr. G.N. Sahewalla, learned Sr. counsel assisted by Ms S. Senapati, learned counsel for the respondents.

This application under Article 226 of the Constitution of India is directed against Title Execution Case No.23/2006 initiated in respect of the decree passed in Title Suit No.183/1986. In fact, the prayer made is for a declaration that the decree dated 12.7.2004 passed in Title Suit No.183/1986 is a nullity.

The aforesaid Title Suit was filed against the petitioner seeking a decree for ejectment from the suit premises. The Title Suit was decreed on 12.7.2004 against which the petitioner preferred Title Appeal being Title Appeal No.38/2004. The same also having been dismissed, the petitioner preferred civil revision petition being C.R.P. No.314/2006 and the same was also dismissed on 18.9.2006. The petitioner being not content with the same, approached the Apex Court by filing Special Leave Petition No.4026/2007 and the same was dismissed by order dated 12.3.2007 and when the title execution case being Title Execution Case No. 23/2006 was filed, the petitioner raised objection with the same. According to the petitioner, the judgment and decree has affected his statutory right as envisaged under Section 5 of the Assam Urban Areas Rent Control Act, 1972. It is the case of the petitioner that the decree dated 12.7.2004 passed in Title Suit No.183/1986 is a nullity and no enforceable inasmuch as no direction was issued to the petitioner to deliver the possession of the suit premises to the respondents.

The petitioner has taken the aforesaid ground after he has lost all the battles. It appears that the petitioner has made all efforts to frustrate the decree. The learned Munsiff No.2, Silchar, Cachar has already dealt with the plea raised by the petitioner under Section 47 of the Code of Civil Procedure by which a prayer was made by the petitioner for dismissal of the title execution case. The entire matter has been discussed in detail towards rejection of the plea of the petitioner. The suit has been decreed in terms of the prayer made in the plaint. The plea of the petitioner that, there is non-compliance of the provisions of Section 5 of the Assam Urban Areas Rent Control Act, 1972 is simply not acceptable after dismissal of his appeal, revision, SLP etc.

The decisions on which Mr. Karmakar, learned counsel for the petitioner i.e. AIR 1970 SC 838 (Smt. Kaushalya Devi and others v. K.L. Bansal) and AIR 1956 SC 359 (Jai Narain v. Kedar Nath), as placed reliance, are not relevant to the issue in hand.

In view of the above, I do not find any merit in the writ petition and accordingly, it is dismissed.